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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,120	03/17/2004	Brian D. Cunningham	MESS-001/00US 307102-2003	5291
58249 7590 12/24/2008 COOLEY GODWARD KRONISH LLP ATTN: Patent Group Suite 1100 777 - 6th Street, NW WASHINGTON, DC 20001			EXAMINER JAKOVAC, RYAN J	
			ART UNIT 2445	PAPER NUMBER
			MAIL DATE 12/24/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/803,120	<b>Applicant(s)</b> CUNNINGHAM, BRIAN D.	
	<b>Examiner</b> RYAN J. JAKOVAC	<b>Art Unit</b> 2445	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 31-51, 53-79 and 81-84 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 31-51, 53-79, 81-84 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 31-51, 53-79, and 81-84 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 01/10090 to Tomkow.

Regarding claim 31-33, 36, 47-49, 52, 53, 76, Tomkow teaches a method comprising: associating with an electronic message authorized by an originator identification data uniquely identifying said electronic message; storing said identification data (Tomkow, pg. 4, digital signature created and recorded for each message. See also abstract.); sending to an intended recipient said electronic message with said identification data (Tomkow, pg. 4, message sent to recipient.); receiving a confirmation request including said identification data (Tomkow, pg. 4, receipt of delivery sent. See also abstract.); comparing said identification data received in said confirmation request to said stored identification data; and upon determining that said identification data received in said confirmation request matches said stored identification data, responding to said confirmation request, affirming said electronic message was authorized by the originator (Tomkow, pg. 4, reply is sent to verify and authenticate the information contained in the message (i.e. the message content, the digital signature, handshake and delivery history). See also abstract.).

Regarding claim 34, 51, Tomkow teaches the method of claim 31, wherein said identification data is included in a message header of said electronic message (Tomkow, pg. 30, 34. See also fig. 2F.).

Regarding claim 35, 46, 54, Tomkow teaches the method of claim 31, wherein said sending includes attaching said identification data as an attachment to said electronic message (Tomkow, pg. 22-24, 33.).

Regarding claim 37, 50, 55, Tomkow teaches the method of claim 31, further comprising: calculating a checksum for said message text; and including said checksum in said identification data and said second electronic message includes one of a text message, VoIP message, or instant message. (Tomkow, pg. 4-5, digital signature is created using a hash function on the message.).

Regarding claim 38-43, 56-61, Tomkow teaches the method of claim 31, wherein said receiving a confirmation request includes receiving said confirmation request via port-to-port communication (Tomkow, pg. 4-5.).

Regarding claim 44, 45, Tomkow teaches the method of claim 31, wherein said comparing is performed at a device different from a device at which said associating is performed, wherein said comparing is performed at a device different from a device at which

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said sending is performed (Tomkow, see at least pg., 4-5, 9, 36, 37, embodiments of Tomkow at originator, mail server, secondary mail server, website, and web based MUA. See also pg. 29.).

Regarding claim 62, Tomkow teaches the method comprising:

receiving a confirmation request to confirm that an electronic message sent to an intended recipient was authorized by an originator identified in the electronic message, the confirmation request including identification data purporting to uniquely identify the electronic message (Tomkow, pg. 26, copy of receipt is sent to verify information contained in the message.); searching a data store for said identification data (Tomkow, pg. 26, message digests are searched.); and upon determining that said data store does not contain said identification data, responding to said confirmation request, denying the electronic message was authorized by the originator (Tomkow, pg. 33, data identifying the message as failed or undelivered is included in the delivery receipt.).

Regarding claim 63-68, 70-75, 77-79, 81-84, Tomkow teaches the method of claim 62, wherein said receiving a confirmation request includes receiving said confirmation request via port-to-port communication, wherein said receiving a confirmation request includes receiving a confirming electronic message (Tomkow, pg. 4, receipt of delivery sent, reply is sent to verify and authenticate the information contained in the message (i.e. the message content, the digital signature, handshake and delivery history). See also 10-15, 22-24, and the abstract.).

Regarding claim 69, Tomkow teaches the method comprising: receiving a confirmation request to confirm that an electronic message sent to an intended recipient was authorized by an

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originator identified in the electronic message, the confirmation request including identification data purporting to uniquely identify the electronic message; searching a data store for said identification data (Tomkow, pg. 4, receipt of delivery sent. See also 10-15, 22-24.); and upon determining that said data store contains said identification data, responding to said confirmation request, affirming the electronic message was authorized by the originator (Tomkow, pg. 4, reply is sent to verify and authenticate the information contained in the message (i.e. the message content, the digital signature, handshake and delivery history). See also abstract.).

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 31-51, 53-79 and 81-84 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RYAN J. JAKOVAC whose telephone number is (571)270-5003. The examiner can normally be reached on Monday through Friday, 7:30 am to 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton B. Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/RJ/

/Larry D Donaghue/  
Primary Examiner, Art Unit 2454

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